

## CHAPTER 115: TAX ON GROSS RECEIPTS DERIVED FROM RETAIL SHORT-TERM LEASE OR RENTAL OF VEHICLES

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### §115.01 PREAMBLE

WHEREAS, the North Carolina General Assembly has ratified Senate Bill 1076, which has been designated as Session Law 2002-2 (the "Act") and made effective for taxable years beginning on or after July 1, 2000; and

WHEREAS, the Act repealed the property tax on certain vehicles leased or rented under retail short-term leases or rentals and authorized municipalities to replace the lost tax revenue through enactment of a local tax on gross receipts derived from retail short-term leases or rentals.

### §115.02 DEFINITIONS

(A) **Customer** shall mean any person that leases or rents a vehicle on a short-term lease or rental basis.

(B) **General Statutes** shall refer to the North Carolina General Statutes and any reference to a particular section thereof shall include the same as may be from time to time amended, modified, supplemented, revised or superseded.

(C) **Gross receipts** shall mean the amount that is or would be reported as gross receipts on a business's state income tax return, or on the federal income tax return filed with the state income tax return if the state return does not separately state gross receipts for the most recently completed tax year. Taxes collected hereunder are not subject to the tax herein imposed and are not included in gross receipts.

(D) **Lease or rental** shall mean a transfer, for consideration, of the use but not the ownership of property to another for a period of time. [G.S. §105-164.3(7a)]

(E) **Long-term lease or rental** shall mean a lease or rental made under a written agreement to lease or rent property to the same person for a period of at least three hundred sixty-five (365) continuous days [G.S. §105-187.1(3)]

(F) **Person** shall mean any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm, or other legal entity.

(G) **Short-term lease or rental** shall mean any lease or rental of a vehicle that is not a long-term lease or rental. [G.S. §160A-215.1(e)(2) and G.S. §105-187.1(4)]

(H) **Tax Collector** shall refer to that individual appointed by the governing body pursuant to (G.S. §105-349) (the provisions of the municipal charter) to collect taxes on behalf of the Town and any other person authorized to carry out the duties and functions of such individual.

(I) **Taxpayer** means any person liable for the taxes imposed by this Ordinance.

(J) **Vehicle** shall mean any of the following:

(1) A motor vehicle of the private passenger type, including a passenger van, minivan, or sport utility vehicle.

(2) A motor vehicle of the cargo type, including a cargo van, pickup truck, or truck with a gross vehicle weight of 26,000 pounds or less used predominantly in the transportation of property for other than commercial freight and that does not require the operator to possess a commercial driver's license.

(3) A trailer or semitrailer with a gross vehicle weight of 6,000 pounds or less. [G.S. §160A-215.1(e)(1)]

### §115.03 LEVY OF TAX

A tax is hereby imposed and levied in an amount equal to one and one-half percent (1.5%) of the gross receipts derived from the short-term lease or rental of vehicles at retail to the general public. This tax on gross receipts is in addition to the privilege taxes authorized by G.S. §160A-211.

### §115.04 COLLECTION OF THE TAX

Every person engaged in the business of the short-term lease or rental of vehicles at retail to the general public shall collect at the time of the lease or rental the tax herein levied, place the tax so collected in a segregated account, and thereafter remit such tax to the Tax Collector in accordance with the provisions of this Ordinance. The taxpayer shall include a provision in each retail short-term lease or rental agreement stating that the percentage amount enacted by this Ordinance of the total lease or rental price, excluding sales tax, is being charged as a tax on gross receipts. The amount of the tax shall be stated separately from the lease or rental

and shown separately on the taxpayer's records. The tax shall be paid by the customer to the taxpayer as trustee for and on account of the Town. The taxpayer shall be liable for the collection thereof and for its payment to the Tax Collector and the taxpayer's failure to charge or to collect said tax from the customer shall not affect such liability.

#### **§115.05 REPORT AND PAYMENT OF TAX**

Taxes levied under this Ordinance are due and payable when a return is required to be filed. Every taxpayer shall, within the time specified, submit a return to the Tax Collector on the form prescribed by the Tax Collector. A return must be signed by the taxpayer or the taxpayer's agent. Returns of taxpayers are due to the Tax Collector each month on or before the fifteenth (15<sup>th</sup>) day of the month following the month in which the tax accrues. As provided in G.S. §160A-208.1, a return shall not be considered a public record and information contained in a return may be disclosed only in accordance therewith.

#### **§115.06 TAXPAYER TO KEEP RECORDS**

The taxpayer shall keep and preserve suitable records of the gross receipts received by such taxpayer in the conduct of business and such other books or accounts as may be necessary to determine the amount of the tax for which such taxpayer is liable under the provisions of this Ordinance. It shall be the duty of the taxpayer to keep and preserve for a period of three years all such records of gross receipts and other books and accounts described. All records, books and accounts herein described shall be open for examination at all reasonable hours during the day by the Tax Collector or his duly authorized agent.

#### **§115.07 TAX COLLECTOR TO PROVIDE FORMS**

The Tax Collector shall design, prepare, print and make available to all taxpayers operating within the municipal boundaries of the Town forms and instructions for filing returns to insure a full collection of and an accounting for taxes due. The failure of any taxpayer to obtain or receive forms shall not relieve such taxpayer from the payment of the tax at the time and in the manner provided.

#### **§115.08 SITUS**

The transaction giving rise to the tax herein levied shall be deemed to have occurred at the location of the entity from which the customer takes delivery of the vehicle. [G.S. §160A-215.1(b)]

#### **§115.09 PENALTIES AND REMEDIES**

The provisions with respect to remedies and penalties applicable to Subchapter VIII (Local Government Sales and Use Tax) of Chapter 105 of the General Statutes, as contained in Article 5 and Article 9, Subchapter 1, Chapter 105 thereof, shall be applicable in like manner to the tax authorized to be levied and collected under this ordinance, to the extent that the same are not inconsistent with the provisions hereof. The governing body of the Town may exercise any power the Secretary of Revenue may exercise in collecting sales and use taxes. [G.S. §160A-215.1(f)]

#### **§115.10 ADMINISTRATION**

In addition to the provisions herein, the levy and collection of the taxes herein imposed shall be otherwise administered in the same manner as the Sales and Use Tax as provided in Article 5, Subchapter 1, Chapter 105, of the General Statutes. [G.S. §160A-215.1(d)]

#### **§115.11 SEVERABILITY**

If any section, clause, or provision of this Ordinance shall be found to be invalid, the validity of the remaining sections, clauses or provisions shall not be affected thereby.

#### **§115.12 AUTHORITY**

This Ordinance is enacted pursuant to the provisions of G.S. §160A-215.1.  
(Ord. No. 1122, passed 6-26-00)